D.B. Special Appeal (C) No.71/2006
Smt. Narayani & ors. Vs. Kirpal Singh & Anr.

28.08.2006

Hon'ble Mrs. Gyan Sudha Misra,J.
Hon'ble Dr. Vineet Kothari, J.

Mr. S.K. Singodiya, for the appellant.
Mr. V.S. Yadav, for the respondent No.2.

This is an appeal for releasing a part of the amount of compensation which had been awarded to the extent of Rs.1,62,000/- by virtue of the Single Bench order. The claimants-appellants have already withdrawn a sum of Rs.62,000/- out of the amount awarded and the balance Rs.1,00,000/- had been ordered to be invested in Monthly Installment Scheme of the Post Office. This appeal has now been filed by the widow of the deceased that the amount of Rs.1,00,000/- which has been locked by way of Monthly Installment Scheme be released in her favour as she has to repay the amount which had been spent by her on account of the marriage of her daughter. Besides this, she also wants to repair her residential house.

Time and again, we have taken a view that the amount of compensation ultimately belongs to the claimants and it is their wish and discretion which should prevail as in what manner the amount would be spent by the claimants. Since the wife of the deceased is interested in withdrawing the amount kept in the Monthly Installment Scheme, we have ascertained from the counsel for the parties as to whether that would be in

the interest of her minor children also. After deliberation, it could be resolved that 50% of the amount, which has been invested in the Monthly Installment Scheme be released in favour of the appellant No.1 Smt. Naryani W/o Late Shri Chhitar in order to meet the expenses and her liabilities, which have been referred to hereinbefore. The Tribunal, therefore, is directed to instruct the concerned post office for breaking the Monthly Installment Scheme and releasing the amount of Rs.50,000/- along with interest which might have accrued by now in favour of the appellant Smt. Naryani. The balance Rs.50,000/-, which has already been invested in the Monthly Installment Scheme in the post office, shall continue to remain in the present status, meaning thereby that it will continue to operate as having been invested in the Monthly Installment Scheme.

The appeal, thus, stands partly allowed.

[**Dr. Vineet Kothari**],**J.** [**Gyan Sudha Misra**],**J.**

/skm/